

249559
2013-16845

Daphne.Duke

From: John Dervay
Sent: Friday, March 21, 2014 2:43 PM
To: Elizabeth.Dieck@dhec.sc.gov
Cc: Anne.Frate@usdoj.gov; Campbell, Chad; Catherine Templeton; Cooper, Sue; Daphne.Duke; greg gregory; harrinc@dhec.sc.gov; Nelson, Jeff; Jocelyn.Boyd; JONES.LAURIE@EPA.Gov; Haley, Nikki; Philip_Land@lgraham.senate.gov; ralph norman; Scott, Dukes; Senator Lindsey Graham
Subject: Administration Order 14-009-w
Attachments: Tega Cay AO 14-009-W (2).pdf

Thank you SO much for the Admin. Order. Please extend my thanks to everyone in your organization. It's a breath of fresh air for us embattled residents.



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

March 20, 2014

VIA CERTIFIED MAIL – 91 7108 2133 3938 7370 6821

Mr. Richard Durham
Tega Cay Water Services, Inc.
200 Weathersfield Avenue
Altamonte Springs, FL 32714-4027

Re: **Administrative Order 14-009-W**
Tega Cay Water Services Inc.
Tega Cay #2 – NPDES Permit SC0026743
Tega Cay #3 & #4 – NPDES Permit SC0026751
York County

Dear Mr. Durham:

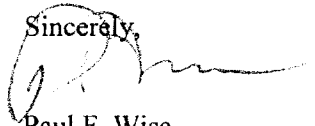
Enclosed is the Administrative Order (Order) referenced above, which is being issued as a result of noncompliance with Consent Order 14-002-W, in that Tega Cay Water Service, Inc. failed to complete installation of the interim equalization measures at WWTF #2 by March 18, 2014.

The Bureau of Water received notice on March 18, 2014, that Tega Cay Water Service, Inc. would not meet the construction schedule for installation of the WWTF #2 temporary equalization measures. The notice cited "force majeure related delays" as the cause of the failure to meet the construction schedule. The Department does not agree, based on the information provided in the notice, that the delays were due to force majeure.

Please review the Order carefully and comply with the requirements, as stated herein. If you choose to appeal the Order, carefully follow the necessary steps as outlined in the "Guide to Board Review" attached. Please note that this administrative action and Order will become a Final Agency Decision within fifteen (15) calendar days from the date of this letter unless a written request for final review (RFR) is received by the Clerk of the Board with the appropriate filing fee.

If you have any questions regarding this Order, please telephone me at (803) 898-4181. If you have questions regarding an appeal, please call the Clerk of the Board, at (803) 898-3309.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Paul F. Wise', written over the word 'Sincerely,'.

Paul F. Wise
Enforcement Officer
Water Pollution Enforcement Section
Bureau of Water

cc: Glenn Trofatter, SC DHEC BOW

**THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: TEGA CAY WATER SERVICE, INC.
TEGA CAY WWTF #2 – PERMIT # SC0026743
TEGA CAY WWTF #3 & #4 – PERMIT # SC0026751
YORK COUNTY**

**ADMINISTRATIVE ORDER
14-009-W**

Tega Cay Water Service, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of Tega Cay wastewater treatment facility (WWTF) #2, Tega Cay WWTF #3 and #4 (collectively the Facilities), and the wastewater collection systems (WWCS) and all appurtenances, serving the customers in the respective service areas in York County, South Carolina.

The Respondent failed to complete installation of interim equalization measures at the WWTF #2 as required by Consent Order 14-002-W.

The Department has determined that it is appropriate and necessary to issue this Administrative Order to include the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Respondent owns and is responsible for the proper operation and maintenance of Tega Cay WWTF #2 and associated collection system, located on Lake Wylie approximately four tenths (0.4) miles west of Secondary Road #99 and one (1) mile north of the intersection of Secondary Roads #30 and 196 and

the associated WWCS that serves the customers of its service area in York County, South Carolina.

2. The South Carolina Department of Health and Environmental Control (Department) reissued NPDES Permit SC0026743 to the Respondent, authorizing the Respondent to discharge treated wastewater to the main channel of Lake Wylie in accordance with effluent limitations, monitoring requirements and other conditions set forth therein.
3. The Respondent owns and is responsible for the proper operation and maintenance of the Tega Cay WWTF #3 and #4 and associated WWCS, located on Lake Wylie approximately one and one half (1.5) miles north of Secondary Road #195 and seven hundred and fifty feet (750) west of the existing marina, that serves the customers of its service area in York County, South Carolina.
4. The Department reissued NPDES Permit SC0026751 to the Respondent, authorizing the Respondent to discharge treated wastewater to the main channel of Lake Wylie in accordance with the effluent limitations, monitoring requirements and other conditions set forth therein.
5. On February 3, 2014, the Respondent entered into Consent Order 14-002-W, in settlement of violations of the NPDES Permits and the SC Pollution Control Act for discharging untreated wastewater into the environment, including into waters of the State, in a manner other than in compliance with a permit issued by the Department.

6. The Respondent agreed to 1) Submit a corrective action plan (CAP) detailing interim measures to include the installation and operation of sufficient interim equalization capacity at the WWTFs as necessary to prevent overflows from the WWTFs; 2) Complete installation of the interim measures described in the CAP within twenty-one days of Department approval; 3) Submit copies of public notices issued by the Respondent for all 'Significant Spills' from the WWTFs and the WWCS; 4) Submit a customer service plan developed to provide timely notice to the customers of the affected area within the WWCS when any SSO occurs; 5) Collect samples of wastewater discharges during all overflows from the wastewater treatment facilities; 6) Maintain documentation of all overflows and within twenty-four (24) hours after detection, orally report all wastewater spills to the Department. Report to the Department on and in accordance with DHEC Sewer System Overflow or Pump Station Failure Report Forms within five (5) days after detection; 7) conduct a Management, Operation and Maintenance (cMOM) audit of the WWCS; 8) Complete rehabilitation of the WWCS; 11) submit summary reports of corrective actions completed in of the WWCS every ninety (90) days; 12) Submit a preliminary engineering report (PER) and plans and specifications detailing modifications to the WWTFs #2, #3 and #4, for the installation of sufficient permanent equalization capacity necessary to prevent overflows from the WWTFs; 13) Complete construction of the permanent equalization capacity at WWTFs #2, #3 and #4; and 5) pay a civil penalty in the

amount of one hundred thirty six thousand dollars (136,00.00).

7. Department received the Interim Measures Corrective Action Plan on February 10, 2014. Department Staff approved the Interim Measures CAP on February 11, 2014.
8. On February 24, 2014, the Respondent submitted a request for an extension to the schedule to install the interim equalization measures at WWTF #2. The Respondent cited force majeure as the cause of the delay, due to issues associated with local zoning and state environmental permitting requirements.
9. On February 26, 2014, Department staff approved the request for an extension to the schedule to install the interim equalization measures. The approval letter established the new compliance date of March 18, 2014, by which the Respondent was to complete installation of the interim (temporary) equalization measures.
10. On March 18, 2014, the Respondent notified the Department that the installation of the interim equalization measures would be not completed on March 18, 2014.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Respondent violated Consent Order 14-002-W, in that it failed to complete installation of the interim equalization measures by March 18, 2018.
2. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for

any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

NOW, THEREFORE, IT IS ORDERED, pursuant to the Pollution Control Act, S.C.

Code Ann. § 48-1-50 (2008 & Supp. 2013), that the Respondent shall:

1. Within thirty (30) days of the issuance of this Order, pay the Department a civil penalty in the amount of ten thousand dollars (\$10,000.00), in addition to the penalties set forth in number 2.
2. In addition to the penalty assessed in number 1, the Respondent shall pay a civil penalty of ten thousand dollars (\$10,000.00) per day for each day after March 18, 2014, until the interim equalization measures are installed and approved by the Department.

PURSUANT TO THIS ORDER, all communication regarding this Order and its requirements, shall include the Order number and shall be addressed as follows:

Paul F. Wise
Water Pollution Enforcement
South Carolina DHEC
2600 Bull Street
Columbia, South Carolina 29201

Include the Order number listed above on all submittals required under this Order, including all checks remitted as payment of the civil penalty.

IT IS FURTHER ORDERED that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), to include the assessment of additional civil penalties.

IT IS FURTHER ORDERED that this Administrative Order does not serve to replace Consent Order 14-002-W, rather it enforces that Order and only serves as a supplement to and modification of that Order to the extent necessary for enforcement of that Order.

IT IS FURTHER ORDERED that this Administrative Order governs only Tega Cay Water Service, Inc's civil liability to the Department for civil sanctions arising from the matters set forth herein.

Notice is hereby given that pursuant to 2006 Act No. 387, as amended, this decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision within fifteen (15) days after notice of this decision has been mailed to the Respondent, unless the Respondent files a written request for final review along with the statutory fee with the Department.

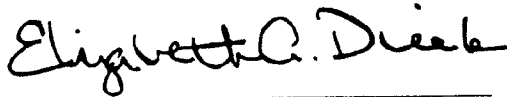
The written request for final review and statutory fee must be filed with the Clerk of the Board at the following address:

Clerk of the Board
SCDHEC
2600 Bull Street
Columbia, SC 29201

IT IS SO ORDERED.

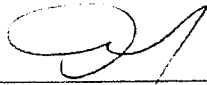
[Signature Page Follows]

FOR THE SOUTH CAROLINA DEPARTMENT
OF HEALTH AND ENVIRONMENTAL CONTROL



Date: 3-20-2014

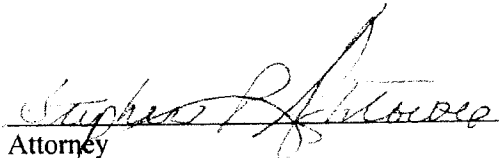
Elizabeth A. Dieck,
Director of Environmental Affairs



Date: 3-20-14

David E. Wilson, Jr., P.E.,
Bureau Chief
Bureau of Water

Reviewed By:



Date: 3/20/2014

Attorney
Office of General Counsel